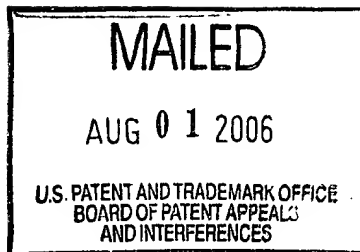


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte GARY D. HODGEN

Application 09/313,625

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on July 17, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below:

An examination of the Image File Wrapper (IFW) reveals that an Appeal Brief was filed on January 23, 2006.

37 CFR § 41.37(c)(1)(v) reads as follows:

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(i) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

....

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

The “Summary of claimed subject matter” appearing on page 3 of the Appeal Brief is deficient because it does not map the claimed invention to the independent claim(s). Correction is required.

In addition, the language of claims 1, 10, 12, and 13 in the Appendix to the Appeal Brief filed January 23, 2006 differs from its last amended version. It should be noted that an amendment was filed on July 2, 2001, which does not appear to have been taken into consideration in any of the subsequent amendments.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) for notification to appellant to submit a substitute Appeal Brief which corrects the "Summary of claimed subject matter" and the Appendix (specifically with regard to claims 1, 10, 12 and 13);
- 2) for consideration of the substitute Appeal Brief; and
- 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 
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DMS:psb

Application 09/313,625

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